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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,202	12/16/1999	BRIAN JOSEPH ROSELLE	6741	1967

27752 7590 08/05/2003

THE PROCTER & GAMBLE COMPANY
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EXAMINER	
PRATT, HELEN F	

ART UNIT	PAPER NUMBER
1761	23

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-23

Office Action Summary	Application No.	Applicant(s)	
	09/446,202	ROSELLE ET AL.	
	Examiner	Art Unit	
	Helen F. Pratt	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14, 22, 23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14, 22, 23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murch '295 in view of Bossert et al. (4,140,649).

The claims are rejected for the reasons of record cited in the last office action and for these further reasons. Claim 14 has been amended to require a wider range of detergent surfactant in the composition, and a somewhat different range of buffer. However, as the product is a concentrated composition, nothing new is seen in adding more of the various components in order to have a proper concentration. Murch '295 discloses a composition, which can be, diluted 3 fold with water (col. 11, lines 44-50). Murch '295 discloses a basic composition at within the claimed range of 9-12.3 or 11 and 12 pH (col. 5, lines 45-65). Therefore, it would have been obvious to make a more concentrated product and to use a pH at within the claimed range.

Claim 22 requires packaging instructions particularly a direction not to rinse the composition to avoid possible recontamination. However, the reference discloses that rinsing may not be required in stating "Failure to rinse thoroughly after cleaning is less of a concern if all of the ingredients are GRAS". Nothing new is seen in a package containing directions as to use and as to proper dilution and timing, as the consumer

would not know these things without some information. Therefore, it would have been obvious to include information in the directions as to how to use the product.

Claim 23 further requires contacting the surface of the food for from one half a minute with 0.1% to 5% by weight of the composition with no additional rinsing. The reference discloses spraying the diluted mixture onto soiled fruit and vegetables and light scrubbing of the food. Certainly, the scrubbing could take place for that length of time or near to it. The particular amounts are seen as being within the skill of the ordinary worker to determine based on the known degree of cleaning that the composition would have required. Therefore, it would have been obvious to treat as above in the composition of the combined references.

ARGUMENTS

Applicant's arguments filed 6-12-03 have been fully considered but they are not persuasive. Applicants argue that the use of EDTA is not taught in '295 but is taught in the reference to Bossert et al. '649 being used at pH values of from 5-8 and 6, but not 10.5 to 13. This range of pH values shows that EDTA can be used at an alkaline pH of 8. It is noted that in applicants' specification on page 3 paragraph C that the use of EDTA is optional. Nothing has been shown that EDTA does not perform its known function at various pH's and there is no reason to assume that it would not have functioned at a higher pH than claimed.

Applicants have submitted case law to show that "printed matter...." Can be given 'patentable weight". However, as above it is seen that it would have been obvious

to provide printed matter as to how to use the product, particularly if one wanted the consumer to derive particular benefits from the product.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Helen F. Pratt at telephone number 703-308-1978.

Hp 8-2-03

H. Pratt

HELEN PRATT
PRIMARY EXAMINER